

Message Text

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ACTION EUR-25

INFO OCT-01 EA-11 NEA-10 ISO-00 AID-20 CEA-02 CIAE-00

COME-00 EB-11 FRB-02 INR-10 IO-14 NSAE-00 RSC-01

OPIC-12 SPC-03 TRSE-00 CIEP-02 LAB-06 SIL-01 OMB-01

XMB-07 STR-08 SS-20 NSC-10 PA-04 PRS-01 USIA-15 L-03

DRC-01 /201 W

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R 141656Z DEC 73

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TO SECSTATE WASHDC 1395

INFO AMEMBASSY BELGRADE

AMEMBASSY BERN

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AMEMBASSY BRUSSELS

AMEMBASSY CANBERRA

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E.O.: 11652: N/A

TAGS: EFIN, OECD

SUBJ: 103RD SESSION FOR INVISIBLE TRANSACTIONS

REF: (A) C(73)216

(B) CFA(73)12

(C) STATE 234123

(D) DAF/INV/73.81

(E) DAF/INV/73.51

1. SUMMARY. AT MEETING DEC 5-7, INVISIBLES COMMITTEE (IC) COMPLETED FINAL DRAFTING ON INWARD DIRECT INVESTMENT PAPER WHICH IS EXPECTED TO BE SUBMITTED TO COUNCIL PRIOR NEXT XCSS MEETING IN EARLY FEB. MANY QUESTIONS RAISED ON WHICH XCSS DISCUSSION MIGHT BE USEFUL TO ACHIEVE BETTER APPLICATION OF CODE TO DIRECT INVESTMENT ISSUES. IC REVIEWED JAPANESE LIBERALIZATION OF INWARD DIRECT AND PORTFOLIO INVESTMENT, COMPLETED ITS EXAMINATION OF FRENCH AND FINNISH RESERVATIONS TO CAPITAL MOVEMENTS CODE (CMC), AND AGREED TRANSMIT FINNISH INVOCATION OF DEROGATION CLAUSE UNDER ARTICLE 7(B) TO COUNCIL. IC HELD FURTHER PRELIMINARY EXAMINATION OF FRENCH DEROGATIONS TO CMC, ALL OF WHICH ARE TO BE TERMINATED AND REPLACED BY LIST B RESERVATIONS. DOCUMENT WILL RETURN TO IC FOR FINAL CONSIDERATION AFTER FRANCE PROVIDES REASONS FOR REQUESTING EACH RESERVATION. JAPAN AND U.S. REPORTED CHANGES IN EXCHANGE REGULATIONS. YUGOSLAV PRIVATE INVESTMENT STUDY POSTPONED NEXT SESSION, WHICH SCHEDULED JAN 23-25. SPECIAL INWARD DIRECT INVESTMENT SESSION NOW SCHEDULED FOR MARCH 12, 1974. END SUMMARY.

2. DEVELOPMENTS SINCE 102ND SESSION (REF A AND B). SECRETARIAT REPORTED RESULTS OF XCSS MEETING NOV 5-6 ON MULTINATIONAL ENTERPRISES. ON DOMESTIC (NATIONAL TREATMENT OF MNC'S, SECRETARIAT HOPES COUNTRIES WILL AGREE TO STANDARD FORMULA FOR TREATMENT, OR AT LEAST MAKE COMMON DECLARATION OF INTENT. SECRETARIAT PLANS TO ASK COUNTRIES TO INDICATE TYPE OF EXCEPTIONS EACH MIGHT REQUIRE, WITH POSSIBILITY SUCH EXCEPTIONS MIGHT BE FORMALIZED AS RESERVATIONS UNDER A NEW ITEM IN CMC. COUNTRIES COULD ALSO INVOKE DEROGATIONS IF REQUIRED AT LATER DATE. ON TAKEOVERS OF EXISTING LIMITED OFFICIAL USE
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COMPANIES BY MNC'S, SECRETARIATE NOTED THAT XCSS EXPERS HAD REJECTED SECRETARIAT PROPOSAL THAT COUNTRIES RECOGNIZE DIRECT INVESTMENT AS FREE WITHIN DEFINED LIMITS. SECRETARIAT WILL SEEK GENERAL POLICY STATEMENT FAVORING THIS OBJECTIVE, AND WILL SEEK TO ESTABLISH MACHINERY FOR EXCHANGE OF INFORMATION ON TAKEOVERS.

3. IC WAS CONCERNED THAT IT NOT BEING CONSULTED ON QUESTIONS INVOLVING MC'S WHICH HAVE LEGAL BASE IN CODE SINCE XCSS EXPERTS NOT FULLY INFORMED ON CODE MATTERS AND XCSS DECISIONS COULD AFFECT FUTURE APPLICATION OF CODE. SOME MEMBERS FELT THERE WAS NEED TO RESOLVE PROBLEMS OF JURISDICTION AND COMPETENCE. MOST FELT BEST WAY TO PROCEED WAS TO FORWARD DIRECT INVESTMENT PAPER

(REF F AND PARA 8 BELOW) TO COUNCIL, WHICH WOULD THEREBY AUTOMATICALLY MAKE IT AVAILABLE TO XCSS. CHAIRMAN INDICATED HE WOULD INFORM XCSS CHAIRMAN OF THIS AND ALSO TAKE UP QUESTIONS OF COMPETENCE WITH SEC GEN.

4. SECRETARIAT ALSO REPORTED BRIEFLY ON ACTIVITIES OF WORKING PARTY NO. 5 OF COMMITTEE ON FISCAL AFFAIRS, WHOSE REPORT (REF B) ON TAXES ON ISSUE AND TRANSFER OF SECURITIES WAS INITIALLY PROPOSED BY IC. CFA EFFORTS TO OBTAIN AGREEMENT ON ABOLITION OR LIMITATION OF TAXES ON SHARES AND BONDS HAVE BEEN UNSUCCESSFUL AND THERE IS NO PROSPECT OF POSITIVE OECD ACTION IN THIS FIELD AT PRESENT.

5. CHANGES IN MEMBERS REGULATIONS (REF C AND D). U.S. EXPERT INFORMED IC OF RELAXATION OF CERTAIN PROVISIONS OF FOREIGN DIRECT INVESTMENT PROGRAM (FDIP), AS REQUESTED REF C. IN RESPONSE TO QUESTION, HE NOTED THAT U.S. INTENTION TO TERMINATE CONTROL PROGRAMS REMAINS UNCHANGED, ALTHOUGH TIMING OF PHASE-OUT NOT YET CLEAR.

6. JAPANESE EXPERT INFORMED IC THAT JAPAN HAS NO FURTHER NEED FOR ARTICLE 7(B) DEROGATION ON ITEMS IV A1 AND A3 OF CMC. FROM NOV 5 NON-RESIDENTS ARE AGAIN PERMITTED TO INVEST IN QUOTED AND NON-QUOTED STOCKS, AND FROM NOV 30 THEY ARE SIMILARLY PERMITTED TO INVEST IN BONDS. IC DISPLAYED DOUBTS THAT RECENT REDUCTION IN PARTICIPATION BY FOREIGNERS IN JAPANESE SECURITIES MARKETS WAS REAL REASON FOR REMOVING RESTRICTIONS (DEROGATION HAD EARLIER BEEN INVOKED ON THE OPPOSITE RATIONAL) AND SUGGESTED THAT REVERSAL IN BALANCE OF PAYMENTS DEVELOPMENTS WAS MORE LIKELY CAUSE. U.S. LIMITED OFFICIAL USE
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AND GERMAN EXPERTS NOTED THAT INVOCATION OF ARTICLE 7(B) DEROGATION REQUIRES THAT COUNTRY DEMONSTRATE PRESENCE OF SERIOUS ECONOMIC AND FINANCIAL DIFFICULTIES. IT WOULD SEEM THAT INITIAL INVOCATION WAS FOR PRECAUTIONARY REASONS RELATED TO BALANCE OF PAYMENTS, AND PERHAPS SHOULD HAVE BEEN BASED ON ARTICLE 7(C) DEROGATION. THEY HOPED THAT ALL MEMBER COUNTRIES WOULD SHOW MORE RESTRAINT IN INVOKING ARTICLE 7(B) IN FUTURE.

7. LIBERALIZATION OF INTERNATIONAL DIRECT INVESTMENT (DI, (REF E). IC DEVOTED ENTIRE DAY TO FURTHER DISCUSSION AND DRAFTING SESSION ON REF E. OPTIONS AND ALTERNATIVES GIVEN BY MEMBERS IN RESPONSE TO PARA 62 WILL BE INCORPORATED IN SUBSTANTIVE BODY OF REPORT (PGS 9 THROUGH 18). IC DELETED HISTORICAL ANALYSIS IN OLD PART 1 OF PAPER AND SUGGESTED NEW INTRODUCTION TO RELATE PAPER MORE TO ONGOING OECD WORK ON SUBJECT IN XCSS. FULL REPORT OF IC DISCUSSION EACH ITEM WILL BE MADE SEPARATELY. KEY ISSUES ARE LISTED BELOW:

1. CMC COVERAGE OF INCENTIVES TO INVESTMENT FLOWS AS WELL AS DISINCENTIVES.

2. POSSIBLE NEED FOR NOTIFICATION OF INCENTIVES.
3. QUESTION OF FREEDOM FOR INVESTMENT TRANSACTIONS VERSUS TRANSFERS.
4. CMC COVERAGE OF REINVESTMENT OF PROFITS.
5. BURDEN OF PROOF ON VERIFICATION. (IS IT ON INVESTOR OR ON CONTROL AUTHORITIES.)
6. TAKEOVERS: (APPLICATION OF REMARK 2 TO DI ITEM IN CMC WAS FELT BY MANY EXPERTS TO ADEQUATELY COVER PROBLEM OF TAKEOVERS.)

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7. APPLICATION OF REMARK 2 OF DI ITEM IN CMC TO OUTWARD DIRECT INVESTMENT.

8. NEED FOR NOTIFICATION OF INVESTMENT REFUSALS.

9. EXTENT TO WHICH IC SHOULD DEAL WITH MATTERS OTHER THAN THOSE FALLING DIRECTLY WITHIN SCOPE OF CMC.

10. USE OF ARTICLE 7(B) DEROGATION. (WHETHER IT REQUIRES SHOWING OF SERIOUS ECONOMIC DISTURBANCE IN ENTIRE ECONOMY OR ONLY A SECTOR OF THE ECONOMY DIRECTLY RELATED TO THE CONTROLS INVOLVED.)

8. COUNTRY ITEMS (JAPAN, FRANCE, FINLAND, SWEDEN, YUGOSLAVIA.)

A. JAPAN (DAF/INV/73.47): IC EXAMINED REVISED VERSION OF JAPANESE RESERVATIONS ON INWARD DIRECT AND PORTFOLIO INVESTMENT, AND PASSED DOCUMENT TO COUNCIL. (DETAILS SEPTEL)

B. FRANCE (DAF/INV/73.69) AND DAF/INV/73.70): IC COMPLETED THIRD EXAMINATION OF FRENCH RESERVATIONS TO CMC AND PASSED TO COUNCIL. FRENCH AGREED MODIFY SCOPE OF RESERVATION ON PLACEMENT OF BONDS AND SHARES ON DOMESTIC CAPITAL MARKETS SO AS TO PERMIT ISSUES BY OFFICIAL OR INTERNATIONAL BODIES. IC RE-EXAMINED FRENCH DEROGATIONS TO CMC, ALL OF WHICH ARE TO BE TERMINATED AND REPLACED BY LIST B RESERVATIONS. DOCUMENT WILL RETURN TO IC FOR FINAL CONSIDERATION AFTER FRANCE PROVIDES REASONS FOR REQUESTING EACH RESERVATION. (DETAILS SEPTEL)

C. FINLAND (DAF/INV/73.71): IC COMPLETED ITS THIRD REVIEW OF FINNISH RESERVATIONS AND AGREED PASS TO COUNCIL AFTER MODIFYING CONCLUSIONS TO REFLECT IC ESTIMATE THAT RESERVATIONS LARGELY PRECAUTIONARY. (DETAILS SEPTEL)

D. SWEDEN (DAF/INV/73.73): IC AGREED CIRCULATE DOCUMENT IN TIR SERIES TO INFORM OECD MEMBERS OF REMOVAL OF THREE SWEDISH DEROGATIONS TO CMC. IC WILL REVIEW REMAINING DEROGATION BEFORE JULY 1974

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E. YUGOSLAVIA (DAF/INV/73.46): YUGOSLAVIA PRIVATE INVESTMENT
STUDY POSTPONED TO JANUARY BECAUSE YUGOSLAV COMMENTS NOT YET AVAIL-
ABLE.

9. OTHER REMARKS: U.S. EXPERT SUGGESTED IC CONSIDER SOME CHANGES
IN EMPHASIS FOR ITS PROCEDURE FOR REVIEWING DEROGATIONS. PRE-
SENT PROCEDURE INVOLVES EXCESSIVELY TIME-CONSUMING INITIAL REVIEW
OF DEROGATION REQUESTS (WHICH HAVE NEVER BEEN REFUSED), AND SECOND
REVIEW SIX MONTHS LATER IS GENERALLY PERFUNCTORY, HAVING MINIMUM
RESULTS. HE NOTED IMPLEMENTATION OF RESTRICTIONS BY A COUNTRY IS
GENERALLY FAIR ACCOMPLISHED OVER WHICH IC HAS NEVER HAD ANY INFLU-
ENCE, AND SUGGESTED INITIAL REQUEST FOR DEROGATION MIGHT BE HELD
MAINLY ON FACTUAL GROUNDS (CLARIFICATION OF RESTRICTIONS AND THEIR
RELATION TO CMC). THE SECOND REVIEW AFTER SIX MONTHS (CMC ART.
13) COULD BE MADE MANDATORY, AND WOULD SET GOALS FOR REMOVAL OR
MODIFICATION OF RESTRICTIONS WHICH OTHERWISE TEND TO BECOME EN-
TRENCHED FACET OF GOVERNMENT POLICY. SIX MONTH WAITING PERIOD
WOULD ALLOW SITUATION TO CLARIFY. MAJOR ECONOMIC ANALYSIS AND EF-
FORT TO REMOVE CONTROLS COULD THEN BE MADE AFTER HEAT OF INITIAL
IMPLEMENTATION OF CONTROLS HAD DIED DOWN. SECRETARIAT AND MANY
IC MEMBERS NOTED SUGGESTION WITH INTEREST, AND U.S. EXPERT WILL
PURSUE IDEA IN IC UNLESS OTHERWISE INSTRUCTED.
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Message Attributes

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To: STATE INFO BELGRADE
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